

1 municipality or an official-capacity defendant and for a claim alleging deliberate indifference
2 against individual persons.

3 In his First Amended Complaint, Plaintiff decided to sue Maricopa County Sheriff
4 Joseph Arpaio solely in his official capacity. The Court dismissed the action because
5 Plaintiff failed to allege that his injury occurred pursuant to a custom, policy, or practice.
6 The Court described the standard for a claim against an individual-capacity defendant.

7 **B. Plaintiff's Second Amended Complaint.**

8 Now, in his Second Amended Complaint, Plaintiff sues Maricopa County Sheriff
9 Joseph Arpaio in his individual and official capacities. Plaintiff asserts that Arpaio has “the
10 responsibility of operating jails and caring for prisoners” and that Plaintiff believes that he
11 “failed in his duties as sheriff to see to my medical needs.” (Sec. Am. Compl. at 3-4.)

12 Plaintiff has failed to heed the Court's descriptions of the legal standards in its earlier
13 orders. For his official-capacity claim, Plaintiff has not asserted that his injury was the result
14 of a custom, policy, or practice of the county in operating its jails. For his individual-
15 capacity claim, Plaintiff has not alleged how Arpaio was personally involved in the decisions
16 regarding his medical care. Defendant's position as a supervisor alone does not make him
17 liable, as there must be allegations to show that Defendant participated in the violations,
18 directed them, or knew of them and failed to act to prevent them. Specifically, there are no
19 allegations to show that Defendant Arpaio knew that Plaintiff required a tomato-free diet, or
20 that Defendant Arpaio in any way participated in the refusal to provide Plaintiff with a
21 tomato-free diet. Instead, Plaintiff asserts that “medical” did not satisfy his requests and that
22 his grievance reached the jail commander. Consequently, Plaintiff fails to state a claim.

23 Plaintiff has twice been permitted leave to amend his complaint. Both times he has
24 failed to present allegations that meet the requisite legal standards, despite carefully
25 explained orders regarding those standards. He will not be permitted an additional
26 opportunity to amend. The Court will dismiss his action without prejudice.

DATED this 17th day of October, 2005.

Earl H. Carroll
United States District Judge